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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IBIZ, LLC, a California Limited Liability
Company,

Plaintiff,

vs.

CITY OF HAYWARD, a California
municipal corporation,

Defendant

Case No: CV 13 1537 SC

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE DATE OF CMC**

Current Hrg.:

Hrg. Date: November 22, 2013

Hrg. Time: 10:00 a.m.

Location: Crtrm. 1, 17th Floor

Judge: Samuel Conti

Proposed New Hrg.:

Hrg. Date: February 7, 2014

Hrg. Time: 10:00 a.m.

Location: Crtrm. 1, 17th Floor

COME NOW PLAINTIFF IBIZ AND DEFENDANT CITY AND STIPULATE AS FOLLOWS:

1 Per this Court's Minute Order (Doc. 46) issued on August 5, 2013, the Case Management
2 Conference in this case is currently set for November 22, 2013 and the Case Management
3 Conference Statement is due on November 15, 2013.

4 The parties mutually request that the Court continue the Case Management Conference to
5 February 7, 2014, and that the filing date for the Case Management Conference Statement be
6 continued to January 31, 2014. This request is made for the following reasons:

7 (1) The significant orders issued by the Court in both this case and the related case of Net
8 Connection, Hayward, LLC v. City of Hayward, N.D.Cal. No. 12-cv-1212 SC, are still
9 being evaluated by the Hayward City Council. Until it completes its evaluation, neither
10 the City nor Plaintiff will be able to assess the future of this case. Accordingly, they
11 would mutually prefer to postpone the Case Management Conference until they know
12 what the City's response to the Court's Orders will be.

13 (2) At this time, there is amendatory legislation presently scheduled to be introduced at the
14 December 10, 2013 City Council Meeting. If the City Council introduces the item, it
15 will be considered for adoption on December 17, 2013.

16 (3) Also, after the City Council has resolved its position, Plaintiff would need time to assess
17 any such position before determining how it wants to proceed in this litigation.

18 (4) Until the City resolves its legislative and enforcement positions, Plaintiff is not
19 presently sure whether it will be necessary to amend its pleadings before proceeding
20 with its prosecution of this case.

21 (5) Counsel had agreed to seek a CMC hearing on January 31st, but after phoning the
22 court's clerk, found that date unavailable.

23 For each of these reasons, the parties believe that a continuance of the Case
24 Management Conference until February 7, 2014, would be in the best interests of both sides and
25 would be the most efficient and economical way to proceed. The parties have checked with this
26 Court's clerk and confirmed that February 7, 2014, would be an available date for the continued
27 hearing.
28

STIPULATION

Subject to the approval of the Court, the parties, by and through their counsel of record, HEREBY STIPULATE, that the Case Management Conference herein be continued to February 7, 2014, at 10:00 a.m. or what ever other time is convenient for the Court, and that the filing date for the Joint Case Management Conference Statement be continued to January 31, 2014.

DATED: November 14, 2013

John H. Weston
G. Randall Garrou
Jerome Mooney
WESTON, GARROU & MOONEY

By: /s/ G. Randall Garrou
G. Randall Garrou
Attorneys for Plaintiff IBIZ LLC

DATED: November 14, 2013

MICHAEL S. LAWSON, CITY ATTORNEY

By: /s/ Michael G. Vigilia
MICHAEL G. VIGILIA
Assistant City Attorney, City of Hayward
Attorney for Defendant, City of Hayward

ORDER

Based on the stipulation of the parties, and good cause appearing therefore, the Case Management Conference herein is hereby continued to February 7, 2014, at 10:00 a.m. and the filing date for the Joint Case Management Conference Statement is continued to January 31, 2014.

IT IS SO ORDERED.

DATED: 11/15/2013

